

State of Arizona
House of Representatives
Forty-eighth Legislature
First Regular Session
2007

HOUSE BILL 2787

AN ACT

AMENDING SECTIONS 12-116.01, 13-610, 13-2314.01, 13-3967, 38-886.01 AND 41-191.09, ARIZONA REVISED STATUTES; REPEALING LAWS 2006, CHAPTER 348, SECTION 4; MAKING APPROPRIATIONS; RELATING TO CRIMINAL JUSTICE BUDGET RECONCILIATION; PROVIDING FOR CONDITIONAL ENACTMENT.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Section 12-116.01, Arizona Revised Statutes, is amended to
3 read:

4 12-116.01. Assessments: fund deposits

5 A. In addition to any other penalty assessment provided by law, a
6 penalty assessment shall be levied in an amount of forty-seven per cent on
7 every fine, penalty and forfeiture imposed and collected by the courts for
8 criminal offenses and any civil penalty imposed and collected for a civil
9 traffic violation and fine, penalty or forfeiture for a violation of the
10 motor vehicle statutes, for any local ordinance relating to the stopping,
11 standing or operation of a vehicle or for a violation of the game and fish
12 statutes in title 17.

13 B. In addition to any other penalty assessment provided by law, an
14 additional penalty assessment shall be levied in an amount of seven per cent
15 on every fine, penalty and forfeiture imposed and collected by the courts for
16 criminal offenses and any civil penalty imposed and collected for a civil
17 traffic violation and fine, penalty or forfeiture for a violation of the
18 motor vehicle statutes, for any local ordinance relating to the stopping,
19 standing or operation of a vehicle or for a violation of the game and fish
20 statutes in title 17.

21 C. In addition to any other penalty assessment provided by law, an
22 additional penalty assessment shall be levied ~~THROUGH DECEMBER 31, 2011~~ in an
23 amount of ~~three~~ SEVEN per cent, ~~AND BEGINNING JANUARY 1, 2012 IN AN AMOUNT OF~~
24 SIX PER CENT, on every fine, penalty and forfeiture imposed and collected by
25 the courts for criminal offenses and any civil penalty imposed and collected
26 for a civil traffic violation and fine, penalty or forfeiture for a violation
27 of the motor vehicle statutes, for any local ordinance relating to the
28 stopping, standing or operation of a vehicle or for a violation of the game
29 and fish statutes in title 17.

30 D. If any deposit of bail or bond or deposit for an alleged civil
31 traffic violation is to be made for a violation, the court shall require a
32 sufficient amount to include the assessment prescribed in this section for
33 forfeited bail, bond or deposit. If bail, bond or deposit is forfeited, the
34 court shall transmit the amount of the assessment pursuant to subsection G of
35 this section. If bail, bond or deposit is returned, the assessment made
36 pursuant to this article shall also be returned.

37 E. After addition of the penalty assessment, the courts may round the
38 total amount due to the nearest one-quarter dollar.

39 F. The judge may waive all or part of the civil penalty, fine,
40 forfeiture and penalty assessment, except for mandatory civil penalties and
41 fines, the payment of which would work a hardship on the persons convicted or
42 adjudicated or on their immediate families. If a fine or civil penalty is
43 mandatory, the judge may waive only all or part of the penalty assessments
44 prescribed by subsections A, B and C of this section and section
45 12-116.02. If a fine or civil penalty is not mandatory and if a portion of

1 the civil penalty, fine, forfeiture and penalty assessment is waived or
2 suspended, the amount assessed must be divided according to the proportion
3 that the civil penalty, fine, bail or bond and the penalty assessment
4 represent of the total amount due.

5 G. After a determination by the court of the amount due, the court
6 shall transmit, on the last day of each month, the assessments collected
7 pursuant to subsections A, B, C and D of this section and a remittance report
8 of the fines, civil penalties and assessments collected pursuant to
9 subsections A, B, C and D of this section to the county treasurer, except
10 that municipal courts shall transmit the assessments and the remittance
11 report of the fines, civil penalties and assessments to the city treasurer.

12 H. The appropriate authorities specified in subsection G of this
13 section shall transmit the forty-seven per cent penalty assessment prescribed
14 in subsection A of this section and the remittance report as required in
15 subsection G of this section to the state treasurer on or before the
16 fifteenth day of each month for deposit in the criminal justice enhancement
17 fund established by section 41-2401.

18 I. The appropriate authorities specified in subsection G of this
19 section shall transmit the seven per cent penalty assessment prescribed in
20 subsection B of this section and the remittance report as required in
21 subsection G of this section to the state treasurer on or before the
22 fifteenth day of each month for allocation pursuant to section 41-2421,
23 subsection J.

24 J. The appropriate authorities specified in subsection G of this
25 section shall transmit the ~~three per cent~~ penalty assessment prescribed in
26 subsection C of this section and the remittance report as required in
27 subsection G of this section to the state treasurer on or before the
28 fifteenth day of each month for deposit in the Arizona deoxyribonucleic acid
29 identification system fund established by section 41-2419.

30 K. Partial payments of the amount due shall be transmitted as
31 prescribed in subsections G, H, I and J of this section and shall be divided
32 according to the proportion that the civil penalty, fine, bail or bond and
33 the penalty assessment represent of the total amount due.

34 Sec. 2. Section 13-610, Arizona Revised Statutes, is amended to read:

35 13-610. Deoxyribonucleic acid testing; exception

36 A. Within thirty days after a person is sentenced to the state
37 department of corrections or a person who is accepted under the interstate
38 compact for the supervision of parolees and probationers arrives in this
39 state, the state department of corrections shall secure a sufficient sample
40 of blood or other bodily substances for deoxyribonucleic acid testing and
41 extraction from the person if the person was convicted of an offense listed
42 in this section and was sentenced to a term of imprisonment or was convicted
43 of any offense that was committed in another jurisdiction that if committed
44 in this state would be a violation of any offense listed in this section and
45 the person is under the supervision of the state department of

1 corrections. The state department of corrections shall transmit the sample
2 to the department of public safety.

3 B. Within thirty days after a person is placed on probation and
4 sentenced to a term of incarceration in a county jail detention facility or
5 is detained in a county juvenile detention facility, the county detention
6 facility shall secure a sufficient sample of blood or other bodily substances
7 for deoxyribonucleic acid testing and extraction from the person if the
8 person was convicted of or adjudicated delinquent for an offense listed in
9 this section. The county detention facility shall transmit the sample to the
10 department of public safety.

11 C. Within thirty days after a person is convicted and placed on
12 probation without a term of incarceration or adjudicated delinquent and
13 placed on probation, the county probation department shall secure a
14 sufficient sample of blood or other bodily substances for deoxyribonucleic
15 acid testing and extraction from the person if the person was convicted of or
16 adjudicated delinquent for an offense listed in this section. The county
17 probation department shall transmit the sample to the department of public
18 safety.

19 D. Within thirty days after the arrival of a person who is accepted
20 under the interstate compact for the supervision of parolees and probationers
21 and who is under the supervision of a county probation department, the county
22 probation department shall secure a sufficient sample of blood or other
23 bodily substances for deoxyribonucleic acid testing and extraction from the
24 person if the person was convicted of an offense that was committed in
25 another jurisdiction that if committed in this state would be a violation of
26 any offense listed in this section and was sentenced to a term of
27 probation. The county probation department shall transmit the sample to the
28 department of public safety.

29 E. Within thirty days after a juvenile is committed to the department
30 of juvenile corrections, the department of juvenile corrections shall secure
31 a sufficient sample of blood or other bodily substances for deoxyribonucleic
32 acid testing and extraction from the youth if the youth was adjudicated
33 delinquent for an offense listed in this section and was committed to a
34 secure care facility. The department of juvenile corrections shall transmit
35 the sample to the department of public safety.

36 F. Within thirty days after the arrival in this state of a juvenile
37 who is accepted by the department of juvenile corrections pursuant to the
38 interstate compact on juveniles and who was adjudicated for an offense that
39 was committed in another jurisdiction that if committed in this state would
40 be a violation of any offense listed in this section, the compact
41 administrator shall request that the sending state impose as a condition of
42 supervision that the juvenile submit a sufficient sample of blood or other
43 bodily substances for deoxyribonucleic acid testing. If the sending state
44 does not impose that condition, the department of juvenile corrections shall
45 request a sufficient sample of blood or other bodily substances for

1 deoxyribonucleic acid testing within thirty days after the juvenile's arrival
2 in this state. The department of juvenile corrections shall transmit the
3 sample to the department of public safety.

4 G. Notwithstanding subsections A through F of this section, the agency
5 that is responsible for securing a sample pursuant to this section shall not
6 secure the sample if the scientific criminal analysis section of the
7 department of public safety has previously received and maintains a sample
8 sufficient for deoxyribonucleic acid testing.

9 H. The department of public safety shall do all of the following:

10 1. Conduct or oversee through mutual agreement an analysis of the
11 samples that it receives pursuant to ~~subsection N, paragraphs 1, 2 and 3 of~~
12 ~~this section and subsection O, paragraphs 1 and 2~~ SUBSECTIONS K, L AND O of
13 this section.

14 ~~2. Store the samples it receives pursuant to subsection N, paragraphs~~
15 ~~4 and 5 of this section and subsection O, paragraphs 3 and 4 of this section~~
16 ~~and conduct an analysis of the samples on receipt of the funding necessary~~
17 ~~for this purpose.~~

18 ~~3.~~ 2. Make and maintain a report of the results of each
19 deoxyribonucleic acid analysis.

20 ~~4.~~ 3. Maintain samples of blood and other bodily substances for at
21 least thirty-five years.

22 I. Any sample and the result of any test that is obtained pursuant to
23 this section may be used only as follows:

24 1. For law enforcement identification purposes.

25 2. In a proceeding in a criminal prosecution or juvenile adjudication.

26 3. In a proceeding under title 36, chapter 37.

27 J. If the conviction of a person who is subject to this section is
28 overturned on appeal or postconviction relief and a final mandate has been
29 issued, on petition of the person to the superior court in the county in
30 which the conviction occurred, the court shall order that the person's
31 deoxyribonucleic acid profile resulting from that conviction be expunged from
32 the Arizona deoxyribonucleic acid identification system established by
33 section 41-2418 unless the person has been convicted of another offense that
34 would require the person to submit to deoxyribonucleic acid testing pursuant
35 to this section.

36 ~~K. If the conviction of a person who is subject to this section is~~
37 ~~classified as a misdemeanor pursuant to section 13-702, on petition of the~~
38 ~~person to the superior court in the county in which the conviction occurred,~~
39 ~~the court shall order that the person's deoxyribonucleic acid profile~~
40 ~~resulting from that conviction be expunged from the Arizona deoxyribonucleic~~
41 ~~acid identification system unless the person has been convicted of another~~
42 ~~offense that would require the person to submit to deoxyribonucleic acid~~
43 ~~testing pursuant to this section.~~

44 ~~L. A person who was convicted or adjudicated delinquent before the~~
45 ~~applicable date provided in this section for any offense for which a~~

~~sufficient sample of blood or other bodily substance for deoxyribonucleic acid testing and extraction is required to be secured shall have a sample secured if the person is in the custody of the state department of corrections, the department of juvenile corrections or a county jail detention facility or is under the supervision of a probation department on the applicable date listed in subsection N or O of this section. The sample shall be secured within one hundred eighty days after the applicable date listed in subsection N or O of this section.~~

K. IF A PERSON IS ARRESTED FOR ANY OFFENSE LISTED IN SUBSECTION O, PARAGRAPH 3 OF THIS SECTION AND IS TRANSFERRED BY THE ARRESTING AUTHORITY TO A STATE, COUNTY OR LOCAL LAW ENFORCEMENT AGENCY OR JAIL, THE ARRESTING AUTHORITY OR ITS DESIGNEE SHALL SECURE A SUFFICIENT SAMPLE OF BUCCAL CELLS OR OTHER BODILY SUBSTANCES FOR DEOXYRIBONUCLEIC ACID TESTING AND EXTRACTION FROM THE PERSON FOR THE PURPOSE OF DETERMINING IDENTIFICATION CHARACTERISTICS. THE ARRESTING AUTHORITY OR ITS DESIGNEE SHALL TRANSMIT THE SAMPLE TO THE DEPARTMENT OF PUBLIC SAFETY.

L. IF A JUDICIAL OFFICER AS DEFINED IN SECTION 13-3967 RELEASES A PERSON ON THE PERSON'S OWN RECOGNIZANCE OR ON BAIL, THE JUDICIAL OFFICER SHALL ORDER THE PERSON TO REPORT, WITHIN FIVE DAYS, IF THE PERSON IS CHARGED WITH A FELONY OR MISDEMEANOR OFFENSE LISTED IN SUBSECTION O, PARAGRAPH 3 OF THIS SECTION TO THE LAW ENFORCEMENT AGENCY THAT ARRESTED THE PERSON OR ITS DESIGNEE AND SUBMIT A SUFFICIENT SAMPLE OF BUCCAL CELLS OR OTHER BODILY SUBSTANCES FOR DEOXYRIBONUCLEIC ACID TESTING AND EXTRACTION. THE ARRESTING AUTHORITY OR ITS DESIGNEE SHALL TRANSMIT THE SAMPLE TO THE DEPARTMENT OF PUBLIC SAFETY. IF A PERSON DOES NOT COMPLY WITH AN ORDER MADE PURSUANT TO THIS SUBSECTION, THE COURT SHALL REVOKE THE PERSON'S RELEASE.

M. A PERSON WHO IS SUBJECT TO SUBSECTION K OR L OF THIS SECTION MAY PETITION THE SUPERIOR COURT IN THE COUNTY IN WHICH THE ARREST OCCURRED OR THE CRIMINAL CHARGE WAS FILED TO ORDER THAT THE PERSON'S DEOXYRIBONUCLEIC ACID PROFILE AND SAMPLE BE EXPUNGED FROM THE ARIZONA DEOXYRIBONUCLEIC ACID IDENTIFICATION SYSTEM, UNLESS THE PERSON HAS BEEN ARRESTED OR CHARGED WITH OR CONVICTED OF ANOTHER OFFENSE THAT WOULD REQUIRE THE PERSON TO SUBMIT TO DEOXYRIBONUCLEIC ACID TESTING PURSUANT TO THIS SECTION, IF ANY OF THE FOLLOWING APPLIES:

1. THE CRIMINAL CHARGES ARE NOT FILED WITHIN THE APPLICABLE PERIOD PRESCRIBED BY SECTION 13-107.

2. THE CRIMINAL CHARGES ARE DISMISSED.

3. THE PERSON IS ACQUITTED AT TRIAL.

~~M.~~ N. If any sample that is submitted to the department of public safety under this section is found to be unacceptable for analysis and use or cannot be used by the department, the department shall require that another sample of blood or other bodily substances be secured pursuant to this section.

~~N.~~ O. This section applies to persons who are:

1 1. Convicted of ~~the following offenses:~~
2 ~~1. A violation of or an attempt to violate any offense in chapter 11~~
3 ~~of this title, any felony offense in chapter 14 or 35.1 of this title or~~
4 ~~section 13-1507, 13-1508 or 13-3608.~~
5 ~~2. Any offense for which a person is required to register pursuant to~~
6 ~~section 13-3821.~~
7 ~~3. Any offense involving the discharge, use or threatening exhibition~~
8 ~~of a deadly weapon or dangerous instrument or the intentional or knowing~~
9 ~~infliction of serious physical injury as provided in section 13-604.~~
10 ~~4. A violation of any felony offense in chapter 34 of this title.~~
11 ~~5. Beginning on January 1, 2004, a violation of any felony offense.~~
12 ~~0. This section applies to persons who are~~
13 2. Adjudicated delinquent for ANY OF the following offenses:
14 ~~1-~~ (a) A violation or an attempt to violate any offense in chapter 11
15 of this title, any felony offense in chapter 14 or 35.1 of this title or
16 section 13-1507, 13-1508 or 13-3608.
17 ~~2-~~ (b) Any offense for which a person is required to register pursuant
18 to section 13-3821.
19 ~~3-~~ (c) A violation of any felony offense in chapter 34 of this title
20 that may be prosecuted pursuant to section 13-501, subsection B, paragraph 2.
21 ~~4-~~ (d) ~~Beginning on January 1, 2004,~~ A violation of any felony offense
22 that is listed in section 13-501.
23 3. BEGINNING JANUARY 1, 2008, ARRESTED FOR A VIOLATION OF ANY OFFENSE
24 IN CHAPTER 11 OF THIS TITLE, A VIOLATION OF SECTION 13-1402, 13-1403,
25 13-1404, 13-1405, 13-1406, 13-1410, 13-1411, 13-1417, 13-1507, 13-1508,
26 13-3208, 13-3214, 13-3555 OR 13-3608 OR A VIOLATION OF ANY SERIOUS OFFENSE
27 PURSUANT TO SECTION 13-604 INVOLVING THE DISCHARGE, USE OR THREATENING
28 EXHIBITION OF A DEADLY WEAPON OR DANGEROUS INSTRUMENT OR THE INTENTIONAL OR
29 KNOWING INFLECTION OF SERIOUS PHYSICAL INJURY.
30 Sec. 3. Section 13-2314.01, Arizona Revised Statutes, is amended to
31 read:
32 13-2314.01. Anti-racketeering revolving fund; use of fund;
33 reports
34 A. There is established an anti-racketeering revolving fund to be
35 administered by the attorney general under the conditions and for the
36 purposes provided by this section. Monies in the fund are exempt from the
37 lapsing provisions of section 35-190.
38 B. Any prosecution and investigation costs, including ~~attorney's~~
39 ATTORNEY fees, recovered for the state by the attorney general as a result of
40 enforcement of civil and criminal statutes pertaining to any offense included
41 in the definition of racketeering in section 13-2301, subsection D, paragraph
42 4 or section 13-2312, whether by final judgment, settlement or otherwise,
43 shall be deposited in the fund established by this section.
44 C. Any monies received by any department or agency of this state or
45 any political subdivision of this state from any department or agency of the

1 United States or another state as a result of participation in any
2 investigation or prosecution, whether by final judgment, settlement or
3 otherwise, shall be deposited in the fund established by this section or, if
4 the recipient is a political subdivision of this state, may be deposited in
5 the fund established by section 13-2314.03.

6 D. Any monies obtained as a result of a forfeiture by any department
7 or agency of this state under this title or under federal law shall be
8 deposited in the fund established by this section. Any monies or other
9 property obtained as a result of a forfeiture by any political subdivision of
10 this state or the federal government may be deposited in the fund established
11 by this section. Monies deposited in the fund pursuant to this section or
12 section 13-4315 shall accrue interest and shall be held for the benefit of
13 the agency or agencies responsible for the seizure or forfeiture to the
14 extent of their contribution. Except as provided in subsections F and G of
15 this section the monies and interest shall be distributed within thirty days
16 of application to the agency or agencies responsible for the seizure or
17 forfeiture. **MONIES IN THE FUND USED BY THE ATTORNEY GENERAL FOR CAPITAL
18 PROJECTS IN EXCESS OF ONE MILLION DOLLARS ARE SUBJECT TO REVIEW BY THE JOINT
19 COMMITTEE ON CAPITAL REVIEW.**

20 E. Monies in the fund may be used for the funding of gang prevention
21 programs, substance abuse prevention programs, substance abuse education
22 programs and witness protection pursuant to section 41-196 or for any purpose
23 permitted by federal law relating to the disposition of any property that is
24 transferred to a law enforcement agency. ~~Monies in the fund may be
25 transmitted by the attorney general on behalf of a department or agency of
26 this state or any political subdivision of this state to the Arizona drug and
27 gang policy council for the funding of gang prevention programs, substance
28 abuse prevention programs and substance abuse education programs.~~ Monies in
29 the fund may be used for the investigation and prosecution of any offense
30 included in the definition of racketeering in section 13-2301, subsection D,
31 paragraph 4 or section 13-2312, including civil enforcement.

32 F. On or before January 15, April 15, July 15 and October 15 of each
33 year, each department or agency of this state receiving monies pursuant to
34 this section or section 13-2314.03 or 13-4315 or from any department or
35 agency of the United States or another state as a result of participation in
36 any investigation or prosecution shall file with the attorney general a
37 report for the previous calendar quarter. The report shall be in a form that
38 is prescribed by the Arizona criminal justice commission and approved by the
39 director of the joint legislative budget committee. The report shall set
40 forth the sources of all monies and all expenditures. The report shall not
41 include any identifying information about specific investigations. If a
42 department or agency of this state fails to file a report within forty-five
43 days after the report is due and there is no good cause as determined by the
44 Arizona criminal justice commission, the attorney general shall make no
45 expenditures from the fund for the benefit of the department or agency until

1 the report is filed. The attorney general is responsible for collecting all
2 reports from departments and agencies of this state and transmitting the
3 reports to the Arizona criminal justice commission at the time that the
4 report required pursuant to subsection ~~H~~ G of this section is submitted.

5 G. On or before January 25, April 25, July 25 and October 25 of each
6 year, the attorney general shall ~~cause to be filed~~ FILE with the Arizona
7 criminal justice commission a report for the previous calendar quarter. The
8 report shall be in a form that is prescribed by the Arizona criminal justice
9 commission and approved by the director of the joint legislative budget
10 committee. The report shall set forth the sources of all monies and all
11 expenditures. The report shall not include any identifying information about
12 specific investigations. If the attorney general fails to file a report
13 within sixty days after the report is due and there is no good cause as
14 determined by the Arizona criminal justice commission, the attorney general
15 shall make no expenditures from the fund for the benefit of the attorney
16 general until the report is filed. If a political subdivision of this state
17 fails to file a report with the county attorney pursuant to section
18 13-2314.03 within forty-five days after the report is due and there is no
19 good cause as determined by the Arizona criminal justice commission, the
20 attorney general shall make no expenditures from the fund for the benefit of
21 the political subdivision until the report is filed.

22 H. On or before January 30, April 30, July 30 and October 30 of each
23 year, the Arizona criminal justice commission shall compile the attorney
24 general report and the reports of all departments and agencies of this state
25 into a single comprehensive report and shall submit a copy of the report to
26 the governor, with copies to the director of the department of
27 administration, the president of the senate, the speaker of the house of
28 representatives and the director of the joint legislative budget committee.

29 Sec. 4. Section 13-3967, Arizona Revised Statutes, is amended to read:
30 13-3967. Release on bailable offenses before trial: definition

31 A. At his appearance before a judicial officer, any person who is
32 charged with a public offense that is bailable as a matter of right shall be
33 ordered released pending trial on his own recognizance or on the execution of
34 bail in an amount specified by the judicial officer.

35 B. In determining the method of release or the amount of bail, the
36 judicial officer, on the basis of available information, shall take into
37 account all of the following:

- 38 1. The views of the victim.
- 39 2. The nature and circumstances of the offense charged.
- 40 3. The weight of evidence against the accused.
- 41 4. The accused's family ties, employment, financial resources,
42 character and mental condition.
- 43 5. The results of any drug test submitted to the court.
- 44 6. Whether the accused is using any substance if its possession or use
45 is illegal pursuant to chapter 34 of this title.

1 7. Whether the accused violated section 13-3407, subsection A,
2 paragraph 2, 3, 4 or 7 involving methamphetamine or section 13-3407.01.

3 8. The length of residence in the community.

4 9. The accused's record of arrests and convictions.

5 10. The accused's record of appearance at court proceedings or of
6 flight to avoid prosecution or failure to appear at court proceedings.

7 11. Whether the accused has entered or remained in the United States
8 illegally.

9 12. Whether the accused's residence is in this state, in another state
10 or outside the United States.

11 C. If a judicial officer orders the release of a defendant who is
12 charged with a felony either on his own recognizance or on bail, the judicial
13 officer shall condition the defendant's release on the defendant's good
14 behavior while so released. On a showing of probable cause that the
15 defendant committed any offense during the period of release, a judicial
16 officer may revoke the defendant's release pursuant to section 13-3968.

17 D. After providing notice to the victim pursuant to section 13-4406, a
18 judicial officer may impose any of the following conditions on a person who
19 is released on his own recognizance or on bail:

20 1. Place the person in the custody of a designated person or
21 organization agreeing to supervise him.

22 2. Place restrictions on the person's travel, associates or place of
23 abode during the period of release.

24 3. Require the deposit with the clerk of the court of cash or other
25 security, such deposit to be returned on the performance of the conditions of
26 release.

27 4. Prohibit the person from possessing any dangerous weapon or
28 engaging in certain described activities or indulging in intoxicating liquors
29 or certain drugs.

30 5. Require the person to report regularly to and remain under the
31 supervision of an officer of the court.

32 6. Impose any other conditions deemed reasonably necessary to assure
33 appearance as required including a condition requiring that the person return
34 to custody after specified hours.

35 E. In addition to any of the conditions a judicial officer may impose
36 pursuant to subsection D of this section, the judicial officer shall impose
37 both of the following conditions on a person who is charged with a felony
38 violation of chapter 14 or 35.1 of this title and who is released on his own
39 recognizance or on bail:

40 1. Electronic monitoring where available.

41 2. A condition prohibiting the person from having any contact with the
42 victim.

43 F. The judicial officer who authorizes the release of the person
44 charged on his own recognizance or on bail shall do all of the following:

1 1. Issue an appropriate order containing statements of the conditions
2 imposed.

3 2. Inform the person of the penalties that apply to any violation of
4 the conditions of release.

5 3. Advise the person that a warrant for his arrest may be issued
6 immediately on any violation of the conditions of release, **INCLUDING THE**
7 **FAILURE TO SUBMIT TO DEOXYRIBONUCLEIC ACID TESTING ORDERED PURSUANT TO**
8 **PARAGRAPH 4 OF THIS SUBSECTION.**

9 4. **IF THE PERSON IS CHARGED WITH A FELONY OR MISDEMEANOR OFFENSE**
10 **LISTED IN SECTION 13-610, SUBSECTION O, PARAGRAPH 3, ORDER THE PERSON TO**
11 **REPORT WITHIN FIVE DAYS TO THE LAW ENFORCEMENT AGENCY THAT ARRESTED THE**
12 **PERSON OR TO THE AGENCY'S DESIGNEE AND SUBMIT A SUFFICIENT SAMPLE OF BUCCAL**
13 **CELLS OR OTHER BODILY SUBSTANCES FOR DEOXYRIBONUCLEIC ACID TESTING AND**
14 **EXTRACTION.**

15 G. At any time after providing notice to the victim pursuant to
16 section 13-4406, the judicial officer who orders the release of a person on
17 any condition specified in this section or the court in which a prosecution
18 is pending may amend the order to employ additional or different conditions
19 of release, including either an increase or reduction in the amount of
20 bail. On application, the defendant shall be entitled to have the conditions
21 of release reviewed by the judicial officer who imposed them or by the court
22 in which the prosecution is pending. Reasonable notice of the application
23 shall be given to the county attorney and the victim.

24 H. Any information that is stated or offered in connection with any
25 order pursuant to this section need not conform to the rules pertaining to
26 admissibility of evidence in a court of law.

27 I. This section does not prevent the disposition of any case or class
28 of cases by forfeiture of bail or collateral security if such disposition is
29 authorized by the court.

30 J. A judicial officer who orders the release of a juvenile who has
31 been transferred to the criminal division of the superior court pursuant to
32 section 8-327 or who has been charged as an adult pursuant to section 13-501
33 shall notify the appropriate school district on the release of the juvenile
34 from custody.

35 K. For the purposes of this section and section 13-3968, "judicial
36 officer" means any person or court authorized pursuant to the constitution or
37 laws of this state to bail or otherwise release a person before trial or
38 sentencing or pending appeal.

39 Sec. 5. Section 38-886.01, Arizona Revised Statutes, is amended to
40 read:

41 **38-886.01. Ordinary disability retirement; qualifications;**
42 **amount of pension; conditions for continued**
43 **payment of pension; definition**

44 A. ~~Full-time dispatchers who are employed by an employer of an~~
45 ~~eligible group as defined in section 38-842~~ A MEMBER may retire and receive

1 an ordinary disability pension if the local board finds that all of the
2 following conditions occur:

3 1. An application for disability retirement is filed with the
4 retirement plan or the local board by either the member or the member's
5 participating employer after the disabling incident or within one year after
6 the date the member ceases to be an employee. Timely application for an
7 ordinary disability pension is a prerequisite to receipt of the pension.

8 2. The member undergoes all medical examinations and tests ordered by
9 the local board and releases to the local board all medical reports and
10 records requested by the local board.

11 3. The local board determines that an ordinary disability condition
12 exists that meets the requirements for an ordinary disability.

13 4. THE MEMBER IS NOT PARTICIPATING IN THE REVERSE DEFERRED RETIREMENT
14 OPTION PLAN PURSUANT TO SECTION 38-885.01.

15 B. The effective date of an ordinary disability retirement shall not
16 predate the date of disability or the date the member ceases to be an
17 employee.

18 C. EXCEPT FOR A FULL-TIME DISPATCHER, THE AMOUNT OF AN ORDINARY
19 DISABILITY PENSION IS EQUAL TO A FRACTION TIMES THE MEMBER'S NORMAL
20 RETIREMENT PENSION THAT IS COMPUTED PURSUANT TO SECTION 38-885, SUBSECTION C
21 AS IF THE MEMBER HAD TWENTY YEARS OF CREDITED SERVICE. THE FRACTION IS THE
22 RESULT OBTAINED BY DIVIDING THE MEMBER'S ACTUAL YEARS OF CREDITED SERVICE,
23 NOT TO EXCEED TWENTY YEARS OF CREDITED SERVICE, BY TWENTY. FOR A FULL-TIME
24 DISPATCHER, the amount of an ordinary disability pension is equal to a
25 fraction times the member's normal retirement pension that is computed
26 pursuant to section 38-885, subsection C as if the member had twenty-five
27 years of credited service. The fraction is the result obtained by dividing
28 the member's actual years of credited service, not to exceed twenty-five
29 years of credited service, by twenty-five.

30 D. During the period, if any, between the effective date of ordinary
31 disability retirement and the date the disabled retired member attains
32 sixty-two years of age the local board may require a disabled retired member
33 to undergo periodic reevaluation of the continuation of ordinary disability.
34 If the disabled retired member refuses to submit to reevaluation, the local
35 board may suspend payment of the pension. If the refusal continues for one
36 year, the local board may revoke the disabled retired member's rights to the
37 pension. An ordinary disability pension is terminated if the local board
38 finds the retired member no longer meets the requirements for ordinary
39 disability retirement.

40 E. A member does not qualify for an ordinary disability pension if the
41 local board determines that the member's disability results from any of the
42 following:

43 1. An injury suffered while engaged in a felonious criminal act or
44 enterprise.

1 2. Service in the armed forces of the United States that entitles the
2 member to a veteran's disability pension.

3 3. A physical or mental condition or injury that existed or occurred
4 before the member's date of membership in the plan.

5 F. Local boards shall base a finding of ordinary disability on medical
6 evidence that is obtained by a medical doctor or clinic selected by the local
7 board and shall disregard any other medical evidence or opinions. If the
8 local board retains more than one medical doctor or clinic in connection with
9 the application, the local board shall resolve any material conflicts
10 presented in the medical evidence that is presented by the medical doctors
11 or clinics.

12 G. For the purposes of this section, "ordinary disability" means a
13 physical condition that the local board determines will prevent an employee
14 from totally and permanently performing a reasonable range of duties within
15 the employee's department or a mental condition that the local board
16 determines will prevent an employee from totally and permanently engaging in
17 any substantial gainful activity.

18 Sec. 6. Section 41-191.09, Arizona Revised Statutes, is amended to
19 read:

20 41-191.09. Attorney general legal services cost allocation
21 fund; contributions; exemptions

22 A. The attorney general legal services cost allocation fund is
23 established for the purpose of reimbursing the department of law for general
24 agency counsel. Monies in the fund are subject to legislative appropriation.
25 The attorney general shall administer the fund.

26 B. Beginning July 1, 2006, all state agency appropriated and
27 nonappropriated funds shall contribute a pro rata share of general agency
28 counsel services provided by the department of law. The pro rata share is
29 payable by payroll fund source, and the resultant amount shall be deposited
30 in the attorney general legal services cost allocation fund. Beginning
31 July 1, ~~2006~~ 2007, the pro rata share for each fund shall be ~~0.635~~ 0.675 per
32 cent of the total payroll. For the purposes of this subsection, "total
33 payroll" includes federal monies, state general fund monies, special revenue
34 funds, intergovernmental revenue monies, trust funds and other payroll fund
35 sources.

36 C. A claim for the pro rata share percentage payment shall be
37 submitted according to the fund source, with the accompanying payroll, to the
38 department of administration for deposit in the attorney general legal
39 services cost allocation fund.

40 D. The following agencies are exempt from this section:

- 41 1. The department of water resources.
- 42 2. The residential utility consumer office.
- 43 3. The industrial commission.
- 44 4. The universities AND THE ARIZONA BOARD OF REGENTS.
- 45 5. The auditor general.

1 6. The corporation commission.
2 7. The office of the governor.
3 8. The department of law.
4 9. The house of representatives.
5 10. The senate.
6 11. The joint legislative budget committee.
7 12. The Arizona state library, archives and public records.
8 13. The legislative council.
9 14. The department of administration risk management fund.
10 15. The department of transportation.
11 16. The Arizona game and fish department.
12 17. The department of economic security.
13 18. The Arizona health care cost containment system.
14 19. The superior court.
15 20. The court of appeals.
16 21. The supreme court.
17 22. The Arizona department of agriculture and councils that receive
18 administrative and budgetary services from the Arizona department of
19 agriculture.
20 23. All self-supporting regulatory agencies as determined pursuant to
21 section 35-143.01.
22 E. Monies in the attorney general legal services cost allocation fund
23 are exempt from lapsing to the state general fund at the end of each fiscal
24 year.
25 Sec. 7. Repeal
26 Laws 2006, chapter 348, section 4 is repealed.
27 Sec. 8. Private prison bed contracting
28 A. Notwithstanding the repeal of Laws 2006, chapter 348, section 4,
29 the department of administration, in consultation with the state department
30 of corrections, shall revise the request for proposals developed pursuant to
31 Laws 2006, chapter 348, section 4 to eliminate the state department of
32 corrections as an eligible bidder and to eliminate any opening date
33 requirements. Notwithstanding section 41-1609.01, subsections G and K and
34 section 41-1609.02, subsection B, Arizona Revised Statutes, the department of
35 administration shall reissue the revised request for proposals to contract
36 for two thousand private prison beds. Private prison vendors may bid for all
37 or a portion of the two thousand beds. The procurement office of the
38 department of administration may award contracts to one or more bidders.
39 B. The state department of corrections shall assume contract
40 responsibilities from the Arizona department of administration after any
41 contract executed pursuant to subsection A of this section is executed.
42 C. The director of the state department of corrections and the
43 director of the department of administration shall jointly submit a report by
44 the end of each calendar quarter to the joint committee on capital review on
45 the status of implementing this section and the public prison projects

1 authorized in section 9 of this act. The joint reports shall be submitted
2 until all prison beds authorized in this section and section 9 of this act
3 are open.

4 D. It is the intent of the legislature to fully fund the contract or
5 contracts entered into pursuant to subsection A of this section.

6 Sec. 9. Public prison facilities; lease purchase; reports

7 A. In accordance with the provisions of section 41-791.02, Arizona
8 Revised Statutes, the director of the department of administration may enter
9 into a twenty year lease purchase agreement for the issuance of certificates
10 of participation in an amount not to exceed \$200,000,000 for the purposes
11 described in subsection B of this section. The department shall structure
12 the agreement so that the first debt service payment does not occur until
13 fiscal year 2008-2009.

14 B. The department of administration shall use the proceeds from
15 subsection A of this section for the design and construction of no more than
16 four thousand state-owned prison beds. The project or projects shall include
17 all related infrastructure and buildings. The department may allocate up to
18 \$275,000 and four full-time equivalent employees each fiscal year to oversee
19 and manage the project or projects until completion. The proceeds of the
20 certificates of participation may be considered state matching monies for any
21 available federal monies.

22 C. The department of administration shall work with the state
23 department of corrections to coordinate the timeline for the public prison
24 projects with the timeline for the contracting of two thousand private prison
25 beds authorized in section 8 of this act.

26 D. The director of the department of administration and the director
27 of the state department of corrections shall jointly submit a report by the
28 end of each calendar quarter to the joint committee on capital review on the
29 status of implementing the provisions of this section and the private prison
30 contract or contracts authorized in section 8 of this act. The joint reports
31 shall be submitted until all prison beds authorized in this section and
32 section 8 of this act are open.

33 Sec. 10. Board of executive clemency; chairman; executive
34 director

35 Notwithstanding any other law, the chairman of the board of executive
36 clemency shall also act as executive director of the board during fiscal year
37 2007-2008 and fiscal year 2008-2009.

38 Sec. 11. State department of corrections budget structure

39 Notwithstanding any other law, the state department of corrections
40 shall report actual fiscal year 2006-2007, estimated fiscal year 2007-2008
41 and requested fiscal year 2008-2009 expenditures for each line item
42 delineated in the fiscal year 2007-2008 general appropriations act when the
43 department submits the fiscal year 2008-2009 budget request pursuant to
44 section 35-113, Arizona Revised Statutes. The information submitted for each

1 line item shall contain as much detail as submitted in previous years for
2 prior line items.

3 Sec. 12. Criminal justice enhancement fund; state general fund
4 deposit; crime laboratory assessment fund

5 Notwithstanding any other law, for fiscal year 2007-2008, any monies
6 distributed from the criminal justice enhancement fund pursuant to section
7 41-2401, subsection D, paragraph 11, Arizona Revised Statutes, shall be
8 deposited in the crime laboratory assessment fund established by section
9 41-2415, Arizona Revised Statutes. Notwithstanding section 41-2415,
10 subsection C, Arizona Revised Statutes, monies distributed by this section
11 pursuant to section 41-2401, subsection D, paragraph 11, Arizona Revised
12 Statutes, are for use by the department of public safety and are exempt from
13 distribution to political subdivisions.

14 Sec. 13. Justices of the peace; payment of compensation; fiscal
15 year 2007-2008

16 Notwithstanding section 22-117, subsection B, Arizona Revised Statutes,
17 for fiscal year 2007-2008, the state shall pay 38.5 per cent of the
18 compensation and employee-related expenditures of a justice of the peace and
19 the county shall pay 61.5 per cent of the compensation and employee-related
20 expenditures of a justice of the peace, except that the county shall pay the
21 full amount of the employer contribution of the state retirement system or
22 plan or any county health plan.

23 Sec. 14. Collection enforcement revolving fund; attorney
24 general; use

25 Notwithstanding section 41-191.03, subsection B, Arizona Revised
26 Statutes, the attorney general may use monies in the collection enforcement
27 revolving fund established by section 41-191.03, Arizona Revised Statutes,
28 for any operating expenses incurred by the department of law in fiscal year
29 2007-2008 and fiscal year 2008-2009.

30 Sec. 15. Capitol police transfer report

31 The department of administration and the department of public safety
32 shall report jointly to the joint legislative budget committee by December 1,
33 2007 on the feasibility of transferring capitol police personnel to the
34 department of public safety.

35 Sec. 16. Appropriations; deoxyribonucleic acid identification
36 system fund; exemption

37 A. The sums of \$1,980,000 in fiscal year 2007-2008, \$2,980,000 in
38 fiscal year 2008-2009, \$3,484,000 in fiscal year 2009-2010, \$3,440,000 in
39 fiscal year 2010-2011 and \$3,520,000 in fiscal year 2011-2012 are
40 appropriated from the monies that are collected pursuant to section
41 12-116.01, subsection C, Arizona Revised Statutes, as amended by this act,
42 and that are distributed pursuant to section 12-116.01, subsection J, Arizona
43 Revised Statutes, as amended by this act, for deposit in the Arizona
44 deoxyribonucleic acid identification system fund established by section
45 41-2419, Arizona Revised Statutes, to the department of public safety for

1 equipment purchases, personal services, employee-related expenses, training,
2 other operating expenses and capital improvements in order to implement,
3 conduct and maintain deoxyribonucleic acid testing.

4 B. The appropriations made in subsection A of this section shall come
5 from the additional four per cent penalty assessment that is collected and
6 distributed pursuant to the penalty assessment increase from three per cent
7 to seven per cent in section 12-116.01, subsections C and J, Arizona Revised
8 Statutes, as amended by this act.

9 C. The appropriation made in subsection A of this section in fiscal
10 year 2007-2008 is exempt from the provisions of section 35-190, Arizona
11 Revised Statutes, relating to lapsing of appropriations.

12 Sec. 17. Effective date; conditional enactment

13 Section 38-886.01, Arizona Revised Statutes, as amended by this act, is
14 effective from and after June 30 of the year that follows the June 30
15 actuarial valuation of the corrections officer retirement plan that
16 determines that the ratio of the funding value of accrued assets to accrued
17 liabilities of the fund is at least one hundred per cent. Notwithstanding
18 this section, the earliest effective date of section 38-886.01, Arizona
19 Revised Statutes, as amended by this act, shall be from and after June 30,
20 2010, but only if the June 30, 2009 actuarial valuation of the corrections
21 officer retirement plan determines that the ratio of the funding value of
22 accrued assets to accrued liabilities of the fund is at least one hundred per
23 cent. The administrator of the corrections officer retirement plan shall
24 notify in writing the director of the Arizona legislative council of the date
25 on which the condition is met.

26 Sec. 18. Retroactivity

27 Section 41-191.09, Arizona Revised Statutes, as amended by this act,
28 applies retroactively to from and after June 30, 2007.